



Module Specification

Litigation and Advocacy

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Part 1: Information

Module title: Litigation and Advocacy

Module code: UJXTR4-30-M

Level: Level 7

For implementation from: 2021-22

UWE credit rating: 30

ECTS credit rating: 15

Faculty: Faculty of Business & Law

Department: FBL Dept of Law

Partner institutions: None

Delivery locations: Frenchay Campus

Field: Law - non modular

Module type: Standard

Pre-requisites: None

Excluded combinations: None

Co-requisites: None

Continuing professional development: No

Professional, statutory or regulatory body requirements: None

Part 2: Description

Overview: Not applicable

Features: Not applicable

Educational aims: Civil Litigation, Statement of Outcomes:

The LPC outcomes will be met by the students undertaking the type and range of

tasks identified in the indicative teaching scheme.

The elements of law and practice to be covered on the elective are primarily identified in the syllabus as expanded upon in this statement and in the indicative teaching scheme.

Professional conduct and regulatory issues will pervade the teaching of this elective. For example, students will consider client care issues, responsibilities to the court, responsibilities to third parties and the rules relating to obtaining and handling of evidence from witnesses of fact and experts.

The course skills which will pervade this elective as identified in the indicative teaching scheme are advising, advocacy, drafting, practical legal research and writing.

Criminal Litigation, Statement of Outcomes:

The LPC outcomes relevant to criminal litigation will be met by students undertaking the type and range of tasks identified in the indicative teaching scheme. The elements of law and practice to be covered are primarily identified in the syllabus as expanded upon in this statement and in the indicative teaching scheme.

Ethical and professional conduct issues will pervade the teaching of this subject. For example, students will consider conflicts of interest (e.g. those arising where a solicitor is asked to represent two or more suspects at a police station), responsibilities to the court (e.g. the overriding duty not to mislead the court), and responsibilities to the client (e.g. the duty of confidentiality).

The course skills which will pervade this subject as identified in the indicative teaching scheme are interviewing, advocacy, practical legal research and writing.

Outline syllabus: Civil Litigation Syllabus:

Introduction to the law of evidence, the skill of fact analysis, the main methods of

funding civil litigation, the basic rules of awarding costs between the parties and an introduction to and overview of the main provisions of the Civil Procedure Rules 1998.

Case Study 1:

Receiving instructions from a client and giving initial advice, including advice on funding and costs. Analysing the case, considering the requirements of the Practice Direction on Protocols and appropriate methods of dispute resolution.

Drafting, issuing and serving Part 7 proceedings including Particulars of Claim.

Requesting default judgement and analysing an application to set judgement aside. Considering evidence in support of the application and drafting evidence to oppose. Considering and analysing the application itself.

Case analysis following receipt of a defence and counterclaim and service of a reply and defence to counterclaim. Further case analysis to ascertain the issues in dispute.

Preparation for track allocation and considering directions.

Considering and advising on disclosure and inspection of documents, expert evidence and witness evidence.

Preparing for trial.

Settlement.

Case study 2:

Considering an application for summary judgement, preparing to act either as advocate for the applicant or for the respondent and acting as advocate in an

opposed recorded role-play hearing before a tutor acting as District Judge.
Considering enforcement procedures.

Case study 3:

Considering issues relating to settlement of a dispute and costs, particularly CPR Part 36.

Indicative Teaching Scheme:

Foundation:

A mix of electronic, written and other material and exercises (some of which will be delivered as pre-course preparation) to provide students with a foundation for the teaching units outlined below. These will comprise an introduction to the law of evidence, the skill of fact analysis, the main methods of funding civil litigation, the basic rules on awarding costs between the parties and an introduction to and overview of the main provisions of the Civil Procedure Rules 1998.

Unit 1: Early Action on the Case:

Preparatory Work:

In addition to the foundation work outlined above:

Preparatory reading on introduction to civil litigation, the first interview and funding, early action on the case and dispute resolution;

Lecture or electronic equivalent on the skill of Fact Analysis;

Online test or equivalent to check understanding of elements of the preparatory

reading;

Researching the Practice Direction on Protocols;

Considering outline instructions from a business client concerning an unpaid invoice and prepare a fact analysis of the claim.

Workshop:

Introduction to the litigation course generally and to the civil litigation course in particular;

Discussion of any issues arising from the workshop reading and online test;

Presentation of answers to prepared questions relating to funding of civil disputes;

Feedback on fact analysis of the claim;

Preparing a fact analysis of the opponent's cross claim, identifying the legal and evidential issues;

Considering the requirements of the Practice Direction on Protocols and give initial advice.

Review/consolidation:

Writing a letter to the client to consolidate understanding of issues from the workshop, for example to confirm advice on the requirements of the Practice Direction on Protocols and on appropriate method(s) of ADR on the case study facts.

Unit 2: Drafting, issue and service of Claim Form and Particulars of Claim and entry of judgement in default.

Preparatory Work:

Preparatory reading on drafting, issue and service of Part 7 proceedings and on statements of case;

Lecture or electronic equivalent on drafting statements of case;

Online test or equivalent to check understanding of aspects of the preparatory reading and lecture/lecture equivalent;

Reading further case papers to progress case study to drafting and issue of proceedings;

Drafting Claim Form and title of Particulars of Claim;

Research to find appropriate court fee and fixed costs.

Workshop:

Feedback on consolidation task from Unit 1.

Discussion of instructions received from client to issue proceedings so as to ensure understanding of both the legal and commercial issues involved.

Feedback on students' draft Claim Forms and discussion of the relevant requirements of the CPR.

Drafting Particulars of Claim using fact analysis from Unit 1.

Exercise on service of proceedings, calculation of dates for filing acknowledgement of service and defence and on entry of default judgement, to include research in the White Book.

Review/Consolidation:

Research task from White Book to consolidate aspects of the unit learning and requiring answers to focused questions, for example on aspects of issue and service of proceedings and setting aside default judgements.

Unit 3 Interim applications, setting aside judgement, drafting and service of further statements of case, amendment and applying for further information.

Preparatory Work:

Preparatory reading on set off, counterclaims and other additional claims, interim applications and evidence. Online test or equivalent to check understanding of aspects of the preparatory reading.

Reviewing fact analysis of defendant's case and considering further case papers, including request for consent to set aside default judgement, client's further instructions and application from the defendant to set aside judgement entered in default.

Workshop:

Feedback on consolidation task from Unit 2.

Review and discussion of events in the case study since the last workshop including the defendant's application to set aside judgement so as to ensure understanding of the legal and commercial issues involved. Considering proof of evidence from client's in-house expert and part drafting a witness statement to oppose the defendant's application to set aside judgement.

Review/Consolidation:

Reading on advocacy before a District Judge followed by viewing a recording of the application to set aside judgement. Preparing a written attendance note of

arguments presented at the hearing and the judge's decision.

Unit 4: Case analysis; track allocation; case management; i; preparing the issues for trial: expert evidence and evidence from witnesses of fact.

Preparatory Tasks:

Preparatory reading on evidence, in particular on expert evidence, including consideration of aspects of the Protocol on Expert Evidence and research/directed reading from the White Book and also on evidence at trial of witnesses of fact. Completion of online test or equivalent to test understanding of aspects of the preparatory work.

Consideration of case-specific issues on obtaining expert evidence particularly instruction of a single joint expert or one expert for each party, the issues the expert should be asked to consider and liability for and payment of the expert's fee.

Workshop:

Feedback on consolidation task from Unit 3.

Review and discussion of students' preparatory work on expert evidence in general and on case-specific matters relating to expert evidence.

Planning instructions to the expert.

Consideration of a proof of evidence from a witness of fact and discussion of issues relating to relevance and admissibility of evidence at trial.

Consolidation/Review:

Drafting witness statement for a witness of fact to be exchanged in advance of trial.

Unit 5: Case analysis, track allocation, case management, directions, disclosure, inspection and privilege.

Preparatory Tasks:

Preparatory reading on track allocation, case management, directions, disclosure and inspection.

Completion of online test or equivalent to test student's understanding of aspects of the preparatory reading.

Reading and analysing further case papers including defence and counterclaim and reply and defence to counterclaim. Note the issues in both the claim and counterclaim.

Considering directions likely to be required and possible case management conference and part preparation of draft allocation questionnaire.

Workshop:

Feedback on consolidation task from Unit 4.

Reviewing and discussing the issues in the case to ensure understanding both of the issues themselves and of their relevance to the procedures required in order to prepare the case for trial.

Reviewing and discussing the directions questionnaire and directions in the case study.

Introductory exercise on disclosure and inspection, including application of the relevant law on privilege.

Consolidation/Review:

Further case-specific task on disclosure and inspection requiring students to draft elements of the list of documents in the case.

Unit 6: Preparation for trial, appeals and settlement.

Preparatory Tasks:

Preparatory reading on trial and preparation for trial, judgement, appeals and settlement.

Electronic test or equivalent to check understanding of aspects of the preparatory reading.

Receiving further evidence in the case study in compliance with directions order made.

Review of case study documents and analysis of evidence. Consideration of pre-trial checklist and confirming compliance with directions order made.

Workshop:

Feedback on consolidation task from unit 5.

Review of pre-trial checklist and of matters necessary to prepare the case for trial.

Presentation and discussion of review of case study and analysis of evidence.

Consideration and discussion of settlement and review of Tomlin Order to settle the case.

Consolidation/Review:

Practice assessment question(s), for example on expert evidence.

Advocacy Unit: Summary judgement and enforcement: preparing for and presenting or opposing an application for summary judgement, including dealing with costs of the application.

Consideration of enforcement procedures.

Preparatory Tasks:

Preparatory reading on advocacy before a District Judge, summary judgement, costs in interim applications and enforcement.

Reading a new case study and, acting as solicitor for the claimant or the defendant, preparing submissions to apply for or oppose an application for summary judgement.

Reviewing the recorded application to set aside judgement first viewed after Unit 3.

Online test or equivalent on enforcement.

Workshop:

Making or opposing an application for summary judgement before a tutor acting as District Judge, receiving outline judgement and making an application for costs.

Receiving individual feedback from the tutor.

Consolidation/Review:

Reflective exercise where students review a recording of their application and reflect on the feedback received.

Unit 7: Part 36 and costs

Preparatory Tasks:

Reading on CPR Part 36 and on costs.

Electronic lecture or equivalent on Part 36 and online test on general principles of the award of costs and matters relating to funding.

Reading and analysing the facts of a new case study and preparing answers to questions relating to Part 36 and costs.

Workshop Tasks:

An unseen quiz on costs generally.

Presentation of answers to prepared questions on Part 36 and costs in the context of the Unit case study.

Consideration and discussion of further issues relating to Part 36 and costs in the context of the unit case study.

Review/overview of the civil litigation course.

Consolidation/Review:

Online revision and consolidation questions.

Write a letter to a client advising on the implications of a Part 36 offer.

Criminal Litigation Syllabus:

Introduction to the law of evidence, the skill of fact analysis, the main methods of

funding civil litigation, the basic rules of awarding costs between the parties and an introduction to and overview of the main provisions of the Criminal Procedure Rules 2005.

Introduction to criminal procedure: how a case proceeds from arrest through to trial and sentencing; the Criminal Procedure Rules 2005, their objectives and their application; the role of the courts in the litigation process.

The investigative powers of the police: arrest; procedure on arrival at the police station; detention at the police station; rights of the suspect; interviews; identification evidence; charging the suspect; bail after charge.

The role of the solicitor at the police station: information gathering; advising on the police interview; advising on identification procedures; advising on charge and bail after charge; the Police Station Representatives' Accreditation Scheme.

Initial hearings in the Magistrates' Court: the first hearing; funding the case; obtaining disclosure from the prosecution; advising on plea; plea before venue and mode of trial; advising on venue.

Bail: the right to bail and exceptions thereto; applying for a remand in custody; applying for bail; conditions of bail; breaches of bail.

Preparation for trial in the Magistrates' Court and the Crown Court: fact and case analysis; evidential issues; committal proceedings; pre-trial reviews and Plea and Case Management hearings; the trial process.

Sentencing: the law; sentencing in practice; pleas in mitigation. Introduction to the law of evidence: visual identification evidence; inferences from silence; hearsay evidence; confession evidence; exclusion of evidence; character evidence.

Indicative teaching scheme:

Unit 1: Advising a suspect at the police station – part 1

Preparatory work:

Preparatory reading: Online test on police powers, rights of the suspect and issues of professional conduct

Introduction to case study 1 Considering information to be obtained from the police prior to interview in case study 1

Workshop:

Group analysis of initial information obtained from the police in case study 1.

Group analysis of suspect's account.

Group discussion of options available to suspect at police interview.

Review/consolidation:

Writing out advice to suspect on how to deal with police interview.

Unit 2: Advising a suspect at the police station – part 2

Preparatory work:

Preparatory reading: Online test on adverse inferences from silence, legal privilege, identification procedures, bail after charge and representation orders.

Considering identification issues in case study 1

Workshop:

Group analysis of identification issues in case study 1.

In sub-groups, considering advice to suspect in case study 1 on proposed identification procedure.

Role-play of negotiation between the solicitor and custody officer over charge and

the grant/refusal of police bail in case study 1

Review/consolidation:

Online completion of an application for a representation order in the Magistrates' Court.

Unit 3: Initial hearings in the Magistrates' Court

Preparatory work:

Preparatory reading Online test on classification of offences, plea, plea before venue and mode of trial

Considering plea before venue and mode of trial in case study 2 and preparing prosecution submission on venue

Workshop:

In sub-groups, considering advice to defendant on plea and venue (including discussion of mode of trial guidelines, sentencing guidelines and range of possible sentence)

Whole group role-play of plea before venue and mode of trial hearing

Review/consolidation:

Exercise considering disclosure obligations of both prosecution and defence in case study 2.

Unit 4: Preparing a case for trial – part 1

Preparatory work:

Preparatory reading

Online test on evidential issues

Detailed consideration of statements and other evidence in case study 2

Preparing written advice to defendant in case study 2 in respect of a number of pretrial issues

Workshop:

Group discussion of pre-prepared advice to client

In sub-groups, discussing further pre-trial issues, including disclosure of unused material, defence disclosure, interviewing and summoning of witnesses, and admissibility/exclusion of evidence

Review/consolidation:

Answering online short-form questions on case study 2

Unit 5: Preparing a case for trial – part 2

Preparation:

Preparatory reading

Online test on further evidential issues

Preparing written advice on further evidential issues (including bad character) in case study 2

Workshop:

Group discussion of pre-prepared advice on further evidential issues In sub-groups, exercise on procedural matters, with reference, inter alia, to Criminal Procedure Rules

Group discussion on procedure if matter going to Crown Court

Review/consolidation:

Writing outline of argument to exclude potentially inadmissible evidence in case study 2.

Unit 6: Sentencing

Preparation:

Preparatory reading

Online test on sentencing

Viewing of pre-recorded plea in mitigation

Preparing plea in mitigation in respect of defendant in case study 2

Workshop:

Individually presenting a plea in mitigation

Student and tutor critiques

Review/consolidation:

Viewing recorded student presentations of plea in mitigation

Part 3: Teaching and learning methods

Teaching and learning methods: Self-study preparation and research in order to acquire knowledge and understanding;

Large group sessions in order to consolidate and develop knowledge and understanding;

A mixture of individual and group work centred on problem-based learning, involving management of information, analysis of complex facts and application of knowledge;

Role play and oral presentations to demonstrate understanding and effective communication of complex areas of law applied to detailed factual scenarios;

Preparation of written communications (primarily in the form of office memoranda and letters of advice to clients) to demonstrate understanding and effective communication of complex areas of law applied to detailed factual scenarios;

Drafting and amending of legal documents, often involving the use of precedents, to demonstrate synthesis and application of knowledge, and the ability to reach autonomous, competent decisions;

Reviews of topics in the form of both large group sessions (where ideas can be pooled and debated) and critical self-evaluation.

The teaching and learning strategy pervading all modules on the Legal Practice Course is a student-centred approach through the provision of a stimulating educational environment.

Face to face teaching and learning in a workshop environment is at the heart of the

Teaching and Learning strategy, for students to participate fully in challenging activities, undertaking a wide variety of exercises as individuals and in groups. Full participation is encouraged and expected. Students are encouraged to ask questions during the workshops and to take responsibility for their own learning. Feedback will be given on these exercises both by students and tutors.

Outside of the workshop students are required to take responsibility for their own learning undertaking a variety of preparatory tasks. These may be undertaken by students either as individuals or working in office groups, including include provision of information using recorded lectures, reading from course manuals and from practitioner texts, reading and research from primary source material, completion of electronic tests, preparing documents or presentations and attending large group sessions.

The final component of each Study Unit will be a consolidation task or tasks designed to broaden and deepen students' understanding of an aspect or aspects of work covered in the relevant Study Unit.

Each Study Unit involves the student undertaking 11.5 Notional Learning Hours, of which (with the exception of the Self Study unit) 2.5 hours will be a Small Group Sessions.

Module Learning outcomes: On successful completion of this module students will achieve the following learning outcomes.

MO1 Advise on the funding options available and the costs consequences of winning or losing litigation (Civil Litigation)

MO2 Analyse the facts of a claim and present the analysis in a 6 level chart. (Civil Litigation)

MO3 Critique a letter of claim in light of the requirements of the Civil Procedure Rules 1998 (as amended) in general and the Practice Direction on Pre-Action Conduct in particular. (Civil Litigation)

MO4 Advise on alternatives to litigation. and the sanctions for breaching the Practice Direction on Pre-Action Conduct. (Civil Litigation)

- MO5** Draft a claim form and straight-forward particulars of claim in a debt claim. (Civil Litigation)
- MO6** Analyse the facts of a defence/ defence and counterclaim and present the analysis in a 6 level chart. (Civil Litigation)
- MO7** Draft an application notice and witness statement in support of an application to set aside judgement. (Civil Litigation)
- MO8** Advise on the likely outcome of an application to set aside judgement. (Civil Litigation)
- MO9** Advise on the practical, procedural and ethical requirements and implications of disclosing documents and relying on expert and lay witnesses. (Civil Litigation)
- MO10** Draft a List of Documents. (Civil Litigation)
- MO11** Draft a Directions Questionnaire. (Civil Litigation)
- MO12** Prepare and undertake a negotiation using arguments relating to merits of a claim and a defence of set off. (Civil Litigation)
- MO13** Analyse case facts and present an application for or against summary judgment, including a suitable application for costs. (Civil Litigation)
- MO14** Analyse case facts and advise on the implications of Part 36 offers to settle, including the likely outcomes as to costs. (Civil Litigation)
- MO15** Advise on the progress of a case from arrest to trial and sentencing; the Criminal Procedure Rules 2005, their objectives and their application; the role of the courts in the litigation process. (Criminal Litigation)
- MO16** Advise as to the investigative powers of the police: arrest; procedure on arrival at the police station; detention at the police station; rights of the suspect; interviews; identification evidence; charging the suspect; bail after charge. (Criminal Litigation)
- MO17** Advise as to the role of the solicitor at the police station: information gathering; advising on the police interview; advising on identification procedures; advising on charge and bail after charge; the Police Station Representatives' Accreditation Scheme. (Criminal Litigation)

MO18 Advise as to initial hearings in the Magistrates' Court: the first hearing; funding the case; obtaining disclosure from the prosecution; advising on plea; plea before venue and mode of trial; advising on venue. Participate in a mode of trial hearing. (Criminal Litigation)

MO19 Advise as to the right to bail and exceptions thereto; applying for a remand in custody; applying for bail; conditions of bail; breaches of bail. Analyse case facts, prepare and present/ resist an application for bail. (Criminal Litigation)

MO20 Advise as to preparation for trial in the Magistrates' Court and the Crown Court: fact and case analysis; evidential issues; committal proceedings; pre-trial reviews and Plea and Case Management hearings; the trial process. (Criminal Litigation)

MO21 Advise as to sentencing in practice; pleas in mitigation. Present a plea in mitigation (Criminal Litigation)

MO22 Advise as to the law of evidence: visual identification evidence; inferences from silence; hearsay evidence; confession evidence; exclusion of evidence; character evidence. (Criminal Litigation)

Hours to be allocated: 300

Contact hours:

Independent study/self-guided study = 267.5 hours

Face-to-face learning = 32.5 hours

Total = 300

Reading list: The reading list for this module can be accessed at [readinglists.uwe.ac.uk](https://uwe.rl.talis.com/modules/ujxtr4-30-m.html) via the following link <https://uwe.rl.talis.com/modules/ujxtr4-30-m.html>

Part 4: Assessment

Assessment strategy: Assessment is by way of 2 x 2 hour Open Book on campus examinations, comprising 25% MCQ/SAQ and 75% Long Form Questions with an

overall pass mark of 50%

These exams are on campus invigilated exams in accordance with SRA requirements.

The Assessment Strategy pervading all modules on the LPC is rigorous in its approach to ensure the credibility of the course to ensure that:

Assessment arrangements will be robust, consistent, fair and secure, to ensure that academic standards will meet the threshold set by the SRA

Assessments will revolve around transactions of the type encountered in practice

Assessments will address depth and realism as well as coverage

Individual assessments cover a representative and robust selection of the relevant outcomes. Where an assessment does not include coverage of all of the outcomes for a particular subject, students will nevertheless be prepared to be assessed on all outcomes and will not be informed of what (or will not) be assessed in any particular assessment.

Student achievement will be measured appropriately in accordance with the LPC outcomes.

All diligent students have an opportunity to achieve and demonstrate the LPC learning outcomes.

The needs of disabled students will be taken into account ensuring equal accessibility of assessments to all students.

Assessment components:

Examination - Component A (First Sit)

Description: 2 hour Open Book on campus examination

Weighting: 50 %

Final assessment: Yes

Group work: No

Learning outcomes tested: MO1, MO10, MO11, MO12, MO13, MO14, MO15, MO16, MO17, MO18, MO19, MO2, MO20, MO21, MO22, MO3, MO4, MO5, MO6, MO7, MO8, MO9

Examination - Component A (First Sit)

Description: 2 hour open book on campus exam

Weighting: 50 %

Final assessment: No

Group work: No

Learning outcomes tested:

Examination - Component A (Resit)

Description: 2 hour Open Book on campus examination.

Weighting: 50 %

Final assessment: Yes

Group work: No

Learning outcomes tested:

Examination - Component A (Resit)

Description: 2 hour on campus open book examination

Weighting: 50 %

Final assessment: No

Group work: No

Learning outcomes tested:

Examination - Component A (Resit)

Description: 2 hour Open Book on campus examination.

Weighting: 50 %

Final assessment: Yes

Group work: No

Learning outcomes tested:

Examination - Component A (Resit)

Description: 2 hour on campus open book examination

Weighting: 50 %

Final assessment: No

Group work: No

Learning outcomes tested:

Part 5: Contributes towards

This module contributes towards the following programmes of study:

Advanced Legal Practice [Sep][PT][Frenchay][2yrs] LLM 2021-22

Advanced Legal Practice [Jan][PT][Frenchay][2yrs] - Not Running LLM 2021-22

Advanced Legal Practice [Sep][FT][Frenchay][1yr] LLM 2021-22

Advanced Legal Practice [Aug][PT][Frenchay][2yrs] - Not Running LLM 2021-22